

1 RYAN L. DENNETT, ESQ.
2 Nevada Bar No. 005617
rdennett@dennettwinspear.com
3 JENNIFER INSLEY MICHERI, ESQ.
4 Nevada Bar No. 010089
jinsley-micheri@dennettwinspear.com
5 **DENNETT WINSPEAR, LLP**
3301 N. Buffalo Drive, Suite 195
6 Las Vegas, Nevada 89129
Telephone: (702) 839-1100
7 Facsimile: (702) 839-1113
Attorneys for Defendant, State Farm
Mutual Automobile Insurance Company

8
9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 ANTHONY GARCIA,

12 Plaintiff,

Case No: 2:18-cv-01029-GMN-PAL

13 vs.

14 STATE FARM MUTUAL AUTOMOBILE
15 INSURANCE COMPANY, a foreign corporation;
DOES I through X, inclusive, and ROE
16 CORPORATIONS I through X, inclusive,

17 Defendants.

18 **STIPULATION FOR EXTENSION OF TIME IN WHICH TO COMPLETE DISCOVERY**
19 **(FIRST REQUEST)**

20 COME NOW, the parties above named, by and through counsel, and move the
21 Honorable Magistrate Judge for an Order continuing Discovery, and submit the instant
22 Stipulation in accordance with LR 6-1 and LR 26-4. The parties hereto previously completed
23 expert discovery according to the initial expert disclosures on December 3, 2018, according to
24 the Joint Discovery Plan and Scheduling Order on file herein (Doc #13), no extension of the
25 expert disclosures dates is contemplated by this stipulation and the parties hereto do not agree
26 to extend any expert disclosure dates. Thus, as past discovery deadlines in this matter pursuant
27 to the Joint Discovery Plan and Scheduling Order on file herein (Doc #13) remain closed.
28 Further, the parties anticipate timely disclosure of rebuttal experts as outlined within the Joint

1 Discovery Plan and Scheduling Order on file herein (Doc #13), and no extension of that date is
2 sought within the instant Stipulation. However, the parties have conferred and agree that an
3 extension of time in which to complete all remaining discovery (and specifically complete
4 depositions) is warranted, good cause exists for the extension.

5 The parties hereby request that the remaining discovery dates in this matter be continued
6 for ninety (90) days. The primary basis for the scope of a ninety-day extension is the fact that Dr.
7 Rosler's office advised that he is not available for deposition until mid-April 2019. Dr. Rosler is
8 Mr. Garcia's treating pain management physician and administered the invasive and alleged
9 accident-related treatment to Mr. Garcia in this case. This Stipulation and request for extension
10 of dates is made more than twenty-one (21) days before the expiration of the discovery deadline
11 (sought to be extended) pursuant to the deadlines for discovery contained within the Joint
12 Discovery Plan and Scheduling Order on file herein (Doc #13). This Stipulation is supported by
13 good cause. No previous requests or extensions for time in which to complete discovery in this
14 matter have been requested in this case.

15 The parties hereto are cognizant of the Honorable Magistrate Judge, Peggy A. Leen's
16 Minute Order (Doc #15), indicating that no extensions of the dates for discovery contained within
17 the Joint Discovery Plan and Scheduling Order on file herein (Doc #13) would be granted without
18 a strong showing of good cause and due diligence (Minute Order, Doc #15).

19 Counsel submits there is a strong showing of good cause and due diligence, as counsel
20 has been working to set necessary depositions and obtain necessary documents identified for
21 the first time during Plaintiff's recent deposition, but has been informed by deponents (and
22 specifically Drs. Rosler and Kaplan) that no dates are available for deposition until after the
23 current deadline for discovery. In order to complete necessary discovery, counsel is requesting
24 additional time in which to accomplish depositions of experts, treating physicians and percipient
25 witnesses, and obtain newly identified documents and records. Counsel continues to work
26 diligently to set said depositions and obtain relevant records, but requires additional time in
27 which to do so.

28 In addition, on November 19, 2018, Defendant deposed Plaintiff, Anthony Garcia. On

1 that date, Plaintiff revealed for the first time that he sought consult from his primary care
2 physician who authored Family Medical Leave Act paperwork authorizing Mr. Garcia to be off
3 work, allegedly in connection with a back injury Mr. Garcia claims as related to the motor vehicle
4 accident at issue in this case. Moreover, Defendant has been diligent in its efforts to obtain Mr.
5 Garcia's employment records. However, Mr. Garcia employer has not provided those records to
6 date. Thus, the parties need time in which to explore these additional issues with respect to
7 Plaintiff's claims, obtain necessary records and conduct necessary depositions of relevant
8 parties in connection with Mr. Garcia's claims of continuing injury.

9 An extension of time for discovery is necessary and good cause exists for the extension
10 pursuant to Local Rule 26-4. In accordance with Local Rule 26-4(c), such extension is warranted
11 so that Defendant may notice necessary depositions to include Plaintiff's physicians and experts,
12 and Plaintiff's employer, and obtain complete employment and FMLA records regarding Mr.
13 Garcia's claim of accident-related back pain, as well as new medical records identified by Mr.
14 Garcia, for the first time, during his deposition. An extension is also warranted and good cause
15 exists because Defendant has been diligent in its efforts to set the depositions and obtain the
16 employment documents, but has not yet been given the opportunity to notice necessary
17 depositions, and to enable the parties to gather evidence necessary in which to support any
18 request for dispositive relief in this matter, and so that the parties may adequately prepare their
19 case in anticipation of trial.

20 Further, in accordance with Local Rule 26-4(c), Plaintiff Garcia disclosed and testified
21 about additional necessary and discoverable information regarding alleged ongoing injury during
22 his November 19, 2018 deposition. The parties have agreed that an extension of the discovery
23 dates are warranted making an extension of time immediately necessary. Counsel continue to
24 work together to complete necessary depositions and discovery. Thus, the instant Stipulation to
25 extend the remaining dates for discovery for sixty (60) days as requested herein is necessary
26 and warranted, with a strong showing of good cause and due diligence by counsel.

27 In accordance with Local Rule 26-4 (a): Discovery that has been completed includes
28 written discovery by the parties, including Requests for Production of Documents, Interrogatories

ORDER

The court is not satisfied that the parties have shown good cause for a 90-day extension of the discovery plan and scheduling order deadlines. The parties have conducted very little discovery and do not provide the dates on which the discovery which has been done was initiated. However, as the parties represent two of the medical experts are not available to have their depositions taken until April 2019, the court will reluctantly grant the stipulation.

IT IS SO ORDERED.

Peggy A. Leen
United States Magistrate Judge
Dated: December 26, 2018

Submitted by:

DENNETT WINSPEAR, LLP

By /s/Jennifer Insley Micheri
RYAN L. DENNETT, ESQ.
Nevada Bar No. 005617
JENNIFER INSLEY MICHERI, ESQ.
Nevada Bar No. 010089
3301 N. Buffalo Drive, Suite 195
Las Vegas, Nevada 89129
Telephone: (702) 839-1100
Facsimile: (702) 839-1113
***Attorneys for Defendant, State Farm
Mutual Automobile Insurance Company***